

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Telesat Acquisition LLC d/b/a Adelphia Cable	)	CSR 6534-E & 6535-E
Communications	)	
	)	
	)	
Petitions for Determination of Effective	)	
Competition in Osceola County (FL0900) and	)	
Inverness (FL09905), FL	)	

**MEMORANDUM OPINION AND ORDER**

**Adopted: January 22, 2007**

**Released: January 24, 2007**

By the Deputy Chief, Policy Division, Media Bureau:

**I. INTRODUCTION**

1. Telesat Acquisition LLC d/b/a Adelphia Cable Communications (“Adelphia”) has filed with the Commission two petitions pursuant to Sections 76.7, 76.905(b)(1) & (2) and 76.907 of the Commission’s rules seeking a finding of effective competition in Osceola County and the City of Inverness, Florida (the “Communities”).<sup>1</sup> Adelphia alleges that its cable systems serving the Communities are subject to effective competition pursuant to Section 623(a)(1) of the Communications Act of 1934, as amended (“Communications Act”)<sup>2</sup> and therefore exempt from cable rate regulation because the Commission has previously issued decisions finding that the Communities are subject to effective competition. No opposition to the petitions was filed. Finding that the Communities were previously determined to be subject to effective competition, we grant the petitions.

2. In the absence of a demonstration to the contrary, cable systems are presumed not to be subject to effective competition,<sup>3</sup> as that term is defined by Section 623(1) of the Communications Act, and Section 76.905 of the Commission's rules.<sup>4</sup> The cable operator bears the burden of rebutting the presumption that effective competition does not exist with evidence that effective competition is present within the relevant franchise area.<sup>5</sup>

<sup>1</sup>See 47 C.F.R. §§ 76.7(a)(1) and 76.905(b)(1) & (2).

<sup>2</sup>See 47 U.S.C. § 543(a)(1).

<sup>3</sup>47 C.F.R. § 76.906.

<sup>4</sup>See 47 C.F.R. § 76.905.

<sup>5</sup>See 47 C.F.R. §§ 76.906 & 907.

## II. DISCUSSION

3. Section 623(l)(1)(B) of the Communications Act provides that a cable operator is subject to effective competition if its franchise area is (a) served by at least two unaffiliated multi-channel video programming distributors ("MVPDs") each of which offers comparable video programming to at least 50 percent of the households in the franchise area; and (b) the number of households subscribing to programming services offered by MVPDs other than the largest MVPD exceeds fifteen percent of the households in the franchise area.<sup>6</sup>

4. The Commission previously determined that Osceola County is subject to effective competition under the competing provider test as a result of competing services provided by Time Warner Entertainment-Advance/Newhouse Partnership and two DBS providers, DirecTV, Inc. and EchoStar Communications Corporation.<sup>7</sup> Time Warner filed the previous effective competition petition for Osceola County.

5. The Commission also previously determined that the City of Inverness is subject to effective competition under the competing provider test as a result of competing services provided by two cable operators, Time Warner Entertainment-Advance/Newhouse Partnership d/b/a Time Warner Communications and Telesat Cablevision, Inc.<sup>8</sup> Time Warner filed the previous effective competition petition for the City of Inverness.

6. In each instance, Adelphia asserts that the competitive circumstances applicable to Time Warner are also applicable to Adelphia and that no intervening circumstances have made our initial findings of effective competition invalid. Accordingly, based on our prior findings that both Osceola County and the City of Inverness, Florida are subject to effective competition, we conclude that Adelphia has submitted sufficient evidence demonstrating that its cable systems serving the Communities are subject to competing provider effective competition.

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<sup>6</sup>47 U.S.C. § 543(l)(1)(B); *see also* 47 C.F.R. § 76.905(b)(2).

<sup>7</sup>*Time Warner Entertainment-Advance/Newhouse Partnership*, 17 FCC Rcd 23587 (2002).

<sup>8</sup>*Time Warner Entertainment-Advance/Newhouse Partnership d/b/a Time Warner Communications*, 12 FCC Rcd 2531 (1997).

### III. ORDERING CLAUSES

7. Accordingly, **IT IS ORDERED** that the petitions filed by Telesat Acquisition LLC d/b/a Adelphia Cable Communications for a determination of effective competition in Osceola County and the City of Inverness, Florida **ARE GRANTED**.

8. **IT IS FURTHER ORDERED** that the certifications of Osceola County and the City of Inverness, Florida to regulate basic cable service rates of Telesat Acquisition LLC d/b/a Adelphia Cable Communications **ARE REVOKED**.

9. This action is taken pursuant to delegated authority pursuant to Section 0.283 of the Commission's rules.<sup>9</sup>

FEDERAL COMMUNICATIONS COMMISSION

Steven A. Broeckaert  
Deputy Chief, Policy Division, Media Bureau

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<sup>9</sup>47 C.F.R. § 0.283.